



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1462/3  
JK:nwn&cjs:md

RM not R

DOA:.....Lillethun, BB0346 - Historic rehabilitation tax credits

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 2-2-09

1 AN ACT <sup>don't gen.</sup> relating to the budget.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, a person who owns an income-producing historic building may claim a federal income tax credit that is equal to 20 percent of certain costs to rehabilitate the historic building. To claim the credit, the building must be listed, or be eligible for listing, on the national register of historic places or located in certain national, state, or local historic districts, and the rehabilitation work must comply with standards established by the secretary of the interior.

Under current law, a person who may claim the federal income tax credit for rehabilitating an income-producing historic building may also claim a state income tax or franchise tax credit that is equal to 5 percent of certain costs to rehabilitate the historic building. To claim the credit, the person must include with the person's tax return evidence that the secretary of the interior approved the rehabilitation work before the rehabilitation work began.

Under this bill, a person may claim the state income and franchise tax credit for rehabilitating an income-producing historic building if the person includes with the person's tax return evidence that the state historic preservation officer recommended the rehabilitation work for approval by the secretary of the interior before the rehabilitation work began and that the rehabilitation was approved by the secretary of the interior.

Under current law, each partner in a partnership or member of a limited liability company is allocated a portion of any tax credit that the partnership or limited liability company may claim, including the credit for rehabilitating a historic building, based on each partner's or member's ownership interest. Under this bill, a partner or member may be allocated a portion of the tax credit for rehabilitating a historic building in a manner specified in an agreement with the other partners or members.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 44.02 (24) of the statutes is amended to read:

2       44.02 (24) Promulgate by rule procedures, standards and forms necessary to  
3       certify, and shall certify, expenditures for preservation or rehabilitation of historic  
4       property for the purposes of s. ss. 71.07 (9m) and (9r), 71.28 (6), and 71.47 (6). These  
5       standards shall be substantially similar to the standards used by the secretary of the  
6       interior to certify rehabilitations under 26 USC 47 (c) (2).

7       **SECTION 2.** 71.07 (9m) (c) of the statutes is amended to read:

8       71.07 (9m) (c) No person may claim the credit under this subsection unless the  
9       claimant includes with the claimant's return evidence that the rehabilitation was  
10      approved recommended by the state historic preservation officer for approval by the  
11      secretary of the interior under 36 CFR 67.6 before the physical work of construction,  
12      or destruction in preparation for construction, began and that the rehabilitation was  
13      approved by the secretary of the interior under 36 CFR 67.6.

14      **SECTION 3.** 71.07 (9m) (cm) of the statutes is created to read:

15      71.07 (9m) (cm) Any credit claimed under this subsection for Wisconsin  
16      purposes shall be claimed at the same time as for federal purposes.

17      **SECTION 4.** 71.07 (9m) (f) of the statutes is amended to read:

71.07 (9m) (f) A partnership, limited liability company, or tax-option corporation may not claim the credit under this subsection. The individual partners of a partnership, members in of a limited liability company, or shareholders in a tax-option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, company, or tax-option corporation, in proportion to the ownership interest of each partner, member or shareholder. The partnership, limited liability company, or tax-option corporation shall calculate the amount of the credit which may be claimed by each partner, member, or shareholder and shall provide that information to the partner, member, or shareholder. For shareholders of a tax-option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company, for which the credit is claimed. For a partnership or limited liability company that places property in service after June 29, 2008, and before January 1, 2009, the credit attributable to such property may be allocated, at the election of the partnership or limited liability company, to partners or members for a taxable year of the partnership or limited liability company that ends after June 29, 2008, and before January 1, 2009. Any partner or member who claims the credit as provided under this paragraph shall attach a copy of the agreement, if applicable, to the tax return on which the credit is claimed. A person claiming the credit as provided under this paragraph is solely responsible for any tax liability arising from a dispute with the department of revenue related to claiming the credit.

2010

1       **SECTION 5.** 71.07 (9m) (g) of the statutes is created to read:

2       71.07 **(9m)** (g) 1. If a person who claims the credit under this subsection elects  
3       to claim the credit based on claiming amounts for expenditures as the expenditures  
4       are paid, rather than when the rehabilitation work is completed, the person shall file  
5       an election form with the department, in the manner prescribed by the department.

6       2. Notwithstanding s. 71.77, the department may adjust or disallow the credit  
7       claimed under this subsection within 4 years after the date that the state historical  
8       society notifies the department that the expenditures for which the credit was  
9       claimed do not comply with the standards for certification promulgated under s.  
10      44.02 (24).

11      **SECTION 6.** 71.28 (6) (c) of the statutes is amended to read:

12      71.28 **(6)** (c) No person may claim the credit under this subsection unless the  
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17      approved by the secretary of the interior under 36 CFR 67.6.

18      **SECTION 7.** 71.28 (6) (cm) of the statutes is created to read:

19      71.28 **(6)** (cm) Any credit claimed under this subsection for Wisconsin purposes  
20      shall be claimed at the same time as for federal purposes.

21      **SECTION 8.** 71.28 (6) (f) of the statutes is amended to read:

22      71.28 **(6)** (f) A partnership, limited liability company, or tax-option corporation  
23      may not claim the credit under this ~~section~~ subsection. The ~~individual~~ individual partners of  
24      a partnership, members of a limited liability company, or shareholders in a  
25      tax-option corporation may claim the credit under this subsection based on eligible

1 costs incurred by the partnership, limited liability company, or tax-option  
2 corporation, ~~in proportion to the ownership interest of each partner, member or~~  
3 ~~shareholder.~~ The partnership, limited liability company, or tax-option corporation  
4 shall calculate the amount of the credit which may be claimed by each partner,  
5 member, or shareholder and shall provide that information to the partner, member,  
6 or shareholder. For shareholders of a tax-option corporation, the credit may be  
7 allocated in proportion to the ownership interest of each shareholder. Credits  
8 computed by a partnership or limited liability company may be claimed in proportion  
9 to the ownership interests of the partners or members or allocated to partners or  
10 members as provided in a written agreement among the partners or members that  
11 is entered into no later than the last day of the taxable year of the partnership or  
12 limited liability company, for which the credit is claimed. For a partnership or  
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14 before January 1, 2009, the credit attributable to such property may be allocated, at  
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20 provided under this paragraph is solely responsible for any tax liability arising from  
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22 **SECTION 9.** 71.28 (6) (g) of the statutes is created to read:

23 71.28 (6) (g) 1. If a person who claims the credit under this subsection elects  
24 to claim the credit based on claiming amounts for expenditures as the expenditures

1 are paid, rather than when the rehabilitation work is completed, the person shall file  
2 an election form with the department, in the manner prescribed by the department.

3 2. Notwithstanding s. 71.77, the department may adjust or disallow the credit  
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8 **SECTION 10.** 71.47 (6) (c) of the statutes is amended to read:

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15 **SECTION 11.** 71.47 (6) (cm) of the statutes is created to read:

16 71.47 (6) (cm) Any credit claimed under this subsection for Wisconsin purposes  
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18 **SECTION 12.** 71.47 (6) (f) of the statutes is amended to read:

19 71.47 (6) (f) A partnership, limited liability company, or tax-option corporation  
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19 **SECTION 13.** 71.47 (6) (g) of the statutes is created to read:

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4 **SECTION 9343. Initial applicability; Revenue.**

5 (1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. The treatment of  
6 sections 44.02 (24), 71.07 (9m) (c), (cm), (f), and (g), 71.28 (6) (c), (cm), (f), and (g), and  
7 71.47 (6) (c), (cm), (f), and (g) of the statutes first applies to property placed in service  
8 on or after June 30, 2008.

9 (END)



**Kreye, Joseph**

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**From:** Grinde, Kirsten - DOA [kirsten.grinde@wisconsin.gov]  
**Sent:** Monday, February 02, 2009 6:39 PM  
**To:** Kreye, Joseph  
**Cc:** Hanaman, Cathlene; Kraus, Jennifer - DOA; Lillethun, Chad W - DOA  
**Subject:** FW: LRB Draft: 09-1462/4 Historic rehabilitation tax credits  
**Attachments:** 09-1462/4.pdf

Joe,

One last little change on this draft:

On page 5, line 14, it should read "before January 1, 2009, the credit attributable..." rather than January 1, 2010. This sentence relates to the placing into service of the property, as opposed to the tax year for which the credit may be allocated (see line 17).

This change will make Section 8 consistent with sections 4 and 12.

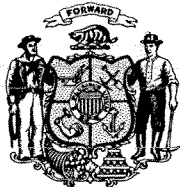
Sorry for all the little changes. Thanks!

Kirsten

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**From:** Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]  
**Sent:** Monday, February 02, 2009 4:40 PM  
**To:** Lillethun, Chad W - DOA  
**Cc:** Grinde, Kirsten - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1462/4 Historic rehabilitation tax credits

Following is the PDF version of draft 09-1462/4.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1462/4 5

JK:nwn&cjs:md

Stays M. M. M.

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1       **SECTION 1.** 44.02 (24) of the statutes is amended to read:

2       44.02 (24) Promulgate by rule procedures, standards and forms necessary to  
3       certify, and shall certify, expenditures for preservation or rehabilitation of historic  
4       property for the purposes of ~~s. ss.~~ 71.07 (9m) and (9r), 71.28 (6), and 71.47 (6). These  
5       standards shall be substantially similar to the standards used by the secretary of the  
6       interior to certify rehabilitations under 26 USC 47 (c) (2).

7       **SECTION 2.** 71.07 (9m) (c) of the statutes is amended to read:

8       71.07 (9m) (c) No person may claim the credit under this subsection unless the  
9       claimant includes with the claimant's return evidence that the rehabilitation was  
10      approved recommended by the state historic preservation officer for approval by the  
11      secretary of the interior under 36 CFR 67.6 before the physical work of construction,  
12      or destruction in preparation for construction, began and that the rehabilitation was  
13      approved by the secretary of the interior under 36 CFR 67.6.

14      **SECTION 3.** 71.07 (9m) (cm) of the statutes is created to read:

15      71.07 (9m) (cm) Any credit claimed under this subsection for Wisconsin  
16      purposes shall be claimed at the same time as for federal purposes.

17      **SECTION 4.** 71.07 (9m) (f) of the statutes is amended to read:

1           71.07 (9m) (f) A partnership, limited liability company, or tax-option  
2 corporation may not claim the credit under this subsection. The individual partners  
3 of a partnership, members in of a limited liability company, or shareholders in a  
4 tax-option corporation may claim the credit under this subsection based on eligible  
5 costs incurred by the partnership, company, or tax-option corporation, in proportion  
6 to the ownership interest of each partner, member or shareholder. The partnership,  
7 limited liability company, or tax-option corporation shall calculate the amount of the  
8 credit which may be claimed by each partner, member, or shareholder and shall  
9 provide that information to the partner, member, or shareholder. For shareholders  
10 of a tax-option corporation, the credit may be allocated in proportion to the  
11 ownership interest of each shareholder. Credits computed by a partnership or  
12 limited liability company may be claimed in proportion to the ownership interests  
13 of the partners or members or allocated to partners or members as provided in a  
14 written agreement among the partners or members that is entered into no later than  
15 the last day of the taxable year of the partnership or limited liability company, for  
16 which the credit is claimed. For a partnership or limited liability company that  
17 places property in service after June 29, 2008, and before January 1, 2009, the credit  
18 attributable to such property may be allocated, at the election of the partnership or  
19 limited liability company, to partners or members for a taxable year of the  
20 partnership or limited liability company that ends after June 29, 2008, and before  
21 January 1, 2010. Any partner or member who claims the credit as provided under  
22 this paragraph shall attach a copy of the agreement, if applicable, to the tax return  
23 on which the credit is claimed. A person claiming the credit as provided under this  
24 paragraph is solely responsible for any tax liability arising from a dispute with the  
25 department of revenue related to claiming the credit.

1           **SECTION 5.** 71.07 (9m) (g) of the statutes is created to read:

2           71.07 **(9m)** (g) 1. If a person who claims the credit under this subsection elects  
3 to claim the credit based on claiming amounts for expenditures as the expenditures  
4 are paid, rather than when the rehabilitation work is completed, the person shall file  
5 an election form with the department, in the manner prescribed by the department.

6           2. Notwithstanding s. 71.77, the department may adjust or disallow the credit  
7 claimed under this subsection within 4 years after the date that the state historical  
8 society notifies the department that the expenditures for which the credit was  
9 claimed do not comply with the standards for certification promulgated under s.  
10 44.02 (24).

11           **SECTION 6.** 71.28 (6) (c) of the statutes is amended to read:

12           71.28 **(6)** (c) No person may claim the credit under this subsection unless the  
13 claimant includes with the claimant's return evidence that the rehabilitation was  
14 approved recommended by the state historic preservation officer for approval by the  
15 secretary of the interior under 36 CFR 67.6 before the physical work of construction,  
16 or destruction in preparation for construction, began and that the rehabilitation was  
17 approved by the secretary of the interior under 36 CFR 67.6.

18           **SECTION 7.** 71.28 (6) (cm) of the statutes is created to read:

19           71.28 **(6)** (cm) Any credit claimed under this subsection for Wisconsin purposes  
20 shall be claimed at the same time as for federal purposes.

21           **SECTION 8.** 71.28 (6) (f) of the statutes is amended to read:

22           71.28 **(6)** (f) A partnership, limited liability company, or tax-option corporation  
23 may not claim the credit under this ~~section~~ subsection. The individual partners of  
24 a partnership, members of a limited liability company, or shareholders in a  
25 tax-option corporation may claim the credit under this subsection based on eligible

1 costs incurred by the partnership, limited liability company, or tax-option  
2 corporation, ~~in proportion to the ownership interest of each partner, member or~~  
3 ~~shareholder.~~ The partnership, limited liability company, or tax-option corporation  
4 shall calculate the amount of the credit which may be claimed by each partner,  
5 member, or shareholder and shall provide that information to the partner, member,  
6 or shareholder. For shareholders of a tax-option corporation, the credit may be  
7 allocated in proportion to the ownership interest of each shareholder. Credits  
8 computed by a partnership or limited liability company may be claimed in proportion  
9 to the ownership interests of the partners or members or allocated to partners or  
10 members as provided in a written agreement among the partners or members that  
11 is entered into no later than the last day of the taxable year of the partnership or  
12 limited liability company, for which the credit is claimed. For a partnership or  
13 limited liability company that places property in service after June 29, 2008, and  
14 before January 1, 2009, the credit attributable to such property may be allocated, at  
15 the election of the partnership or limited liability company, to partners or members  
16 for a taxable year of the partnership or limited liability company that ends after June  
17 29, 2008, and before January 1, 2010. Any partner or member who claims the credit  
18 as provided under this paragraph shall attach a copy of the agreement, if applicable,  
19 to the tax return on which the credit is claimed. A person claiming the credit as  
20 provided under this paragraph is solely responsible for any tax liability arising from  
21 a dispute with the department of revenue related to claiming the credit.

22 **SECTION 9.** 71.28 (6) (g) of the statutes is created to read:

23 71.28 (6) (g) 1. If a person who claims the credit under this subsection elects  
24 to claim the credit based on claiming amounts for expenditures as the expenditures

1 are paid, rather than when the rehabilitation work is completed, the person shall file  
2 an election form with the department, in the manner prescribed by the department.

3 2. Notwithstanding s. 71.77, the department may adjust or disallow the credit  
4 claimed under this subsection within 4 years after the date that the state historical  
5 society notifies the department that the expenditures for which the credit was  
6 claimed do not comply with the standards for certification promulgated under s.  
7 44.02 (24).

8 **SECTION 10.** 71.47 (6) (c) of the statutes is amended to read:

9 71.47 (6) (c) No person may claim the credit under this subsection unless the  
10 claimant includes with the claimant's return evidence that the rehabilitation was  
11 approved recommended by the state historic preservation officer for approval by the  
12 secretary of the interior under 36 CFR 67.6 before the physical work of construction,  
13 or destruction in preparation for construction, began and that the rehabilitation was  
14 approved by the secretary of the interior under 36 CFR 67.6.

15 **SECTION 11.** 71.47 (6) (cm) of the statutes is created to read:

16 71.47 (6) (cm) Any credit claimed under this subsection for Wisconsin purposes  
17 shall be claimed at the same time as for federal purposes.

18 **SECTION 12.** 71.47 (6) (f) of the statutes is amended to read:

19 71.47 (6) (f) A partnership, limited liability company, or tax-option corporation  
20 may not claim the credit under this subsection. The ~~individual~~ partners of a  
21 partnership, members of a limited liability company, or shareholders in a tax-option  
22 corporation may claim the credit under this subsection based on eligible costs  
23 incurred by the partnership, limited liability company, or tax-option corporation, ~~in~~  
24 ~~proportion to the ownership interest of each partner, member or shareholder.~~ The  
25 partnership, limited liability company, or tax-option corporation shall calculate the

1 amount of the credit which may be claimed by each partner, member, or shareholder  
2 and shall provide that information to the partner, member, or shareholder. For  
3 shareholders of a tax-option corporation, the credit may be allocated in proportion  
4 to the ownership interest of each shareholder. Credits computed by a partnership  
5 or limited liability company may be claimed in proportion to the ownership interests  
6 of the partners or members or allocated to partners or members as provided in a  
7 written agreement among the partners or members that is entered into no later than  
8 the last day of the taxable year of the partnership or limited liability company, for  
9 which the credit is claimed. For a partnership or limited liability company that  
10 places property in service after June 29, 2008, and before January 1, 2009, the credit  
11 attributable to such property may be allocated, at the election of the partnership or  
12 limited liability company, to partners or members for a taxable year of the  
13 partnership or limited liability company that ends after June 29, 2008, and before  
14 January 1, 2010. Any partner or member who claims the credit as provided under  
15 this paragraph shall attach a copy of the agreement, if applicable, to the tax return  
16 on which the credit is claimed. A person claiming the credit as provided under this  
17 paragraph is solely responsible for any tax liability arising from a dispute with the  
18 department of revenue related to claiming the credit.

19 **SECTION 13.** 71.47 (6) (g) of the statutes is created to read:

20 71.47 (6) (g) 1. If a person who claims the credit under this subsection elects  
21 to claim the credit based on claiming amounts for expenditures as the expenditures  
22 are paid, rather than when the rehabilitation work is completed, the person shall file  
23 an election form with the department, in the manner prescribed by the department.

24 2. Notwithstanding s. 71.77, the department may adjust or disallow the credit  
25 claimed under this subsection within 4 years after the date that the state historical



1 society notifies the department that the expenditures for which the credit was  
2 claimed do not comply with the standards for certification promulgated under s.  
3 44.02 (24).

4 **SECTION 9343. Initial applicability; Revenue.**

5 (1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. The treatment of  
6 sections 44.02 (24), 71.07 (9m) (c), (cm), (f), and (g), 71.28 (6) (c), (cm), (f), and (g), and  
7 71.47 (6) (c), (cm), (f), and (g) of the statutes first applies to property placed in service  
8 on or after June 30, 2008.

9 (END)